REMARKS

Claims 1-74 are pending in the application and are presented for further examination in view of the foregoing amendments and the following remarks. By the foregoing amendments claim 18 has been amended.

REJECTIONS UNDER §112

In the office action claim 18 was rejected under 35 USC §112 as being indefinite. Specifically, the term "substantially continuous" was pointed to as being a relative term which renders the claim indefinite. By the foregoing amendments that term has been deleted from the claim. Applicant therefore submits that the rejections under §112 has been overcome.

OBJECTION TO THE SPECIFICATION

In the office action, the specification was objected because a figure number was missing from the end of paragraph (0003). By the foregoing amendments, the number "1" has been inserted at the end of the that paragraph. Applicant thinks the examiner for his careful review of the specification.

OBJECTIONS UNDER §102

In the office action claims 1-47 were rejected under 35 USC §102(a) as being anticipated by Stanwood, et al. (WO 00/72626). Applicant reserves the right to challenge whether Stanwood is available as prior art against the present application. The following remarks are directed primarily to independent claims 1, 31 and 43, though they apply with equal force to each of the rejected claims.

112174.000000/321668.01

16

PAGE 17/22 * RCVD AT 3/16/2005 7:15:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/4 * DNIS:8729306 * CSID:619 * DURATION (mm-ss):06-16

Claim 1 is generally directed to a method of obtaining bandwidth requests from a plurality of users of a communication base station which provides communication uplink bandwidth on request to the users. In one exemplary embodiment of such a system, a parameter value, such as quality of service or previous rate of use, for each user is determined and stored. Polling rates for each of the users are selected in accordance with the stored parameter value associated with that user. The users are then polled at the selected polling rate. The stored parameter value for each user is updated when there is a change in that parameter. The polling rate for that user is then changed in response to the changed parameter value. Stanwood does not teach or suggest such a method.

For example, Stanwood does not teach or suggest selecting a polling rate for a particular user in accordance with the parameter value stored for that user. Stanwood, at page 20, lines 2-5, describes the method depicted in figure 6 as determining whether bandwidth is available for the purpose of individually polling the CPEs. If bandwidth is not available for that purpose, then the method initiates multicast or broadcast polling. If a determination is made whether there are any unpolled active CPEs that have a "pull-me" bit set. If such CPEs are present, they are individually polled. If no such CPEs are present, the system determines whether unpolled inactive CPEs are present. Note that in no point during that process is a polling rate selected based upon a parameter values stored for the user.

In the office action the claim term "parameter value stored for the user" is said to correspond to values of "bandwidth allocation." Note that those "bandwidth allocation values" are not used in the determination of whether to pole the CPEs in Stanwood that determination is based on the availability of bandwidth in the system for polling.

17

Additionally, Applicant can find no description of "a polling rate" for a particular user in Stanwood as is set forth in claim 1. Rather, Stanwood describes polling when bandwidth is available for polling. The polling of Stanwood does not appear to be periodic nor does it appear to have polling rates for particular users. Therefore, applicant respectfully requests that Stanwood does not anticipate nor make obvious claim 1 and each of the claims which depend therefrom.

Independent claim 31 is directed to a method of obtaining bandwidth requests from a plurality of users of a communication base station which provides communication uplink bandwidth upon request to the users. The claim includes, *inter alia,* "selecting a polling rate for the particular user in accordance with the polling category of that user; periodically polling that particular user for bandwidth requests at the selected polling rate...." Stanwood fails to teach or disclose such a method.

In the office action the claim element of "assigning a particular user to one of a plurality of polling categories" is said to correspond to the CPE or user being assigned to either individual polling, multicast or broadcast polling per figures 6 and 8. Those same figures, 6 and 8 are also said to correspond with the claim element of "selecting a polling rate for the particular user in accordance with the polling category of that user." However, nowhere in figures 6 and 8 is a rate for polling shown or disclosed. Rather, different types of polling are described.

In the office action the claim element of "periodically polling the particular user for bandwidth requests at the selected polling rate" is said to correspond to "the CPE or user is polled for bandwidth allocation requests based upon the uplink subframe map table and the available bandwidth per figures 6 and 8." However, figure 6 and 8 do not show periodic polling

112174.000000/321668.01

18

PAGE 19/22 * RCVD AT 3/16/2005 7:15:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/4 * DNIS:8729306 * CSID:619 * DURATION (mm-ss):06-16

and certainly do not show such polling at a "selected polling rate." Rather, figure 6 and 8 only show the timing of multicast and broadcast polling being determined upon the availability of bandwidth (figure 8.) Figure 6 show individual polling being controlled not by a rate, but by the availability of bandwidth and the use of a "pull-me" bit. Such a system does not correspond to a method which poles users using a selected polling rate.

The office action asserts that the claim limitation of "changing the polling rate for the particular user in accordance with the different polling category to which the user is assigned" corresponds with the base station changing a CPE's polling category from individual, multicast or broadcast to another one of individual, multicast or broadcast. However, nothing in the cited figures 6 and 8 of Stanwood shows or describes the different polling techniques as having different polling rates as is required by the claim. In fact, the different polling techniques of Stanwood do not seem to be periodic in any way. Therefore, Applicant respectfully requests that Stanwood does not anticipate or make obvious claim 31 and each of the claims which depend therefrom.

Applicant respectfully submits that the arguments set forth above with regard to claims 1 and 31 apply with equal force to independent claim 43 and each of the claims which depend therefrom.

REJECTIONS UNDER §103

In the office action claims 48-74 were rejected under 35 USC as being unpatentable over Stanwood. Applicant respectfully traverses his ground of rejection. Though the foregoing remarks are directed primarily to independent claim 48 and 68, they apply with equal force to each of the rejected claims.

112174.000000/521668.01

19

The rejection of claim 48 relies upon figures 6 and 8 of Stanwood. Those figures describe a system that performs individual polling of CPEs when sufficient bandwidth is available in the system for such polling (figure 6, block 602). When sufficient bandwidth is not available in the system for individual polling, the system then determines whether sufficient bandwidth is available in the system for multicast polling. If sufficient, bandwidth is not available in the system for multicast polling, the system then determines whether sufficient bandwidth is available for broadcast polling. If sufficient bandwidth is not available for broadcast polling, no polling takes place. Each of the decisions on what type of polling to conduct is based upon bandwidths availability in the network.

That is unlike the system set forth in claim 48. For example, claim 48 includes a polling policy module which, *inter alia*, is configured to "change a polling protocol for the user in response to a change in the value of the communication parameter." Stanwood does not teach or suggest changing the polling protocol of a user in response to a change in the value of a communication parameter of that user. Rather, Stanwood teaches switching between individual polling, multicast polling and broadcast polling based upon bandwidth availability in the system.

Similarly, claim 68 is not anticipated nor made obvious by Stanwood. For example, claim 68 includes, *inter alia*, a polling policy module configured to change the polling rate for a user in accordance with the different polling category to which the user is assigned. Stanwood does not appear to teach or suggest varying the rate of polling for users. Stanwood appears to respond to requests for a poll and otherwise polls as bandwidth is available.

In view of the foregoing Applicant respectfully submits the claims 48, 68 and each of the claims which depend therefrom are patentable over the references of record.
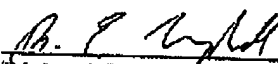
20

CONCLUSION

Reconsideration and further examination of the application in view of the foregoing amendments and remarks is respectfully solicited. The examiner is encouraged to contact the undersigned by telephone if such contact may expedite the prosecution of this application.

Respectfully submitted,

Dated: March 16, 2005

Richard E. Campbell
Reg. No. 34,790

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B Street, Suite 2100
San Diego, California 92101-4469
(619) 238-1900 (Phone)
(619) 235-0398 (Fax)